

OCT 3 2009

Russell Wheat  
Special Assistant Attorney General  
840 Helena Avenue  
Helena, MT 59601  
406-444-2040

Attorney for Montana Securities Department

BEFORE THE STATE AUDITOR  
EX-OFFICIO COMMISSIONER OF SECURITIES  
HELENA, MONTANA

IN THE MATTER OF	)	CASE NO. SEC-2009-14
	)	
RONALD MOSCHETTA,	)	
	)	
individually and in his capacity as a	)	
securities salesperson for Strasbourger	)	
Pearson Tulcin Wolff Inc., and	)	
	)	
STRASBOURGER PEARSON TULCIN	)	AMENDED
WOLFF INC.	)	NOTICE OF PROPOSED AGENCY
600 Old Country	)	DISCIPLINARY ACTION
Garden City, NY 11,	)	AND OPPORTUNITY FOR HEARING
	)	
	)	
	)	
	)	
Respondents.	)	

Staff of the Securities Department (Department) of the office of the State Auditor as Commissioner of Securities of the state of Montana (Commissioner), pursuant to the authority of the Securities Act of Montana, §§ 30-10-101, *et seq.*, MCA (2009), is proposing to the Commissioner that she take specific action against Ronald Moschetta (Moschetta) and Strasbourger Pearson Tulcon Wolff Inc. (Strasbourger), with its principal place of business located at 600 Old Country, Garden City, NY 11530, named above for violations of the Montana Securities Act. The Commissioner has authority to take such action under the provisions of Sections §§ 30-10-102, 30-10-201, 30-10-305, and 30-10-309, (2009) MCA.

In particular, the Securities Department (Department) staff is recommending specific action against Moschetta and Strasbourger including enforcement of the consent agreement, imposition of appropriate fines, appropriate restitution with interest and revocation or suspension of Respondents' registrations and licenses pursuant to the provisions of the Montana Securities Act.

Service of process is pursuant to § 30-10-107 (8), MCA.

### **REASONS FOR ACTION**

There is probable cause to believe that the following facts, if true, justify and support such specific action.

### **ALLEGATIONS**

1. The time period relevant to this action is February 26, 2007 through the present.
2. Strasbourger Pearson Tulcin Wolff Inc., is a broker-dealer firm with a principal place of business at 600 Old Country Road, Suite 318, Garden City, NY 11530. The firm has never been registered in Montana pursuant to the requirements of Montana's Securities Act, Mont. Code Ann. §§ 30-10-101, *et seq.*
3. From February 2008 through February 2009 Mochetta and Strasbourger made solicited securities transactions with Montana residents without being registered total of seven times. The results of the transactions were \$51,170.06 in losses to the Montana residents.
4. The transactions are outlined below and identify the security and loss incurred.

Client	Purchased	Description	Symbol	Initial Price	Close a/o 3/18/2009	Gain/Loss
Investor 1	1000	Freddie Mac General	FRE	\$ 4.83	\$ 0.82	\$ (4,829.18)
Investor 1	1000	Motors Micron	GM	\$10.52	\$ 2.64	\$ (10,517.36)
Investor 1	1500	Technology	MU	\$ 4.23	\$ 3.77	\$ (6,341.23)
Investor 1	100	Teco Energy General	TE	\$16.02	\$11.12	\$ (1,590.79)
Investor 1	25000	Motors Deb 8.375 7/15/33 General	GM.HB	\$ 51.75	\$13.25	\$ (12,924.25)
Investor 1	25000	Motors Deb 8.375 7/15/33 General	GM.HB	\$ 37.85	\$13.25	\$ (9,449.25)
Investor 2	50000	Motors Deb 8.375 7/15/33	GM.HB	\$ 22.13	\$13.25	\$ (5,518.00)
						<b>\$(51,170.06)</b>

5. On or about April 24, 2009, Mochetta and Strausbourger entered into a consent agreement with the State of Montana in which they were required to pay a \$2,000 fine to the State of Montana and offer rescission to the Montana investors affected. The following is the consent agreement language tolling the statute of limitation and reservation of the agency's rights:

The applicable Statute of Limitation, § 30-10-305, MCA, is tolled for two (2) years from the date of execution of this Settlement Agreement with regard to the allegations set forth above. In the event Respondents violate the terms of this Settlement Agreement at any time during the two-year tolling period the State Auditor's Office reserves the right to seek additional fines of up to \$40,000 and to seek a permanent ban on registration or filings by Respondents.

6. Mochetta and Strausbourger sent a check to the State of Montana for \$2,000 which was returned due to insufficient funds.

7. The State sent a rescission letter to the Montana investors and received a written request for rescission. To date no rescission has been paid.

8. A copy of the rescission request was sent to both Mochetta and

Strausbourger.

9. On or about June 8, 2009, the Department received notice that the \$2,000 check from Strausbourger to the State of Montana had bounced. The check was returned due to insufficient funds in the firm's account and to date has not been paid.

10. After the bounced check was discovered, the Department contacted Strausbourger and Mochetta, asking them to wire the money the same day which they refused to do.

11. The rescission amount agreed upon in the consent agreement was not paid. After Mr. Mochetta was contacted regarding this obligation, he refused to comply.

12. Due to the fact that neither the firm nor Mr. Mochetta could cover the financial obligations arising from the consent agreement they willingly entered into, the Department, in an attempt to further protect Montana consumers, implemented this action against both Mochetta and Strausbourger, and seeks to enforce the terms of the consent agreement.

### **CONCLUSIONS OF LAW**

1. The Montana State Auditor is the Commissioner of Securities (Commissioner) pursuant to §§ 30-10-107, 2-15-1903 MCA.

2. The Commissioner has jurisdiction over this matter pursuant to §§ 30-10-102, 30-10-107, 30-10-201, 30-10-301, 30-10-304, 30-10-305, and 30-10-307, MCA.

3. The administration of the Securities Act of Montana, §§ 30-10-101, *et seq.*, MCA, is under the supervision and control of the Securities Commissioner. Section 30-10-107, MCA.

4. Mochetta and Strasbourger violated § 30-10-201, MCA, by soliciting seven trades without properly registering with the state.

5. Mochetta and Strasbourger violated §§ 30-10-201(13)(i), MCA, by failing to comply with a consent agreement, including paying a fine, entered into with the Department. § 30-10-201(18)

### **RELIEF SOUGHT**

1. Order enforcement of the consent agreement including:
  - a. pay an administrative fine to the State of Montana in the amount of \$2,000.
  - b. pay rescission to Montana consumers in the amount of \$51,170.06.
2. Order Respondents to pay \$40,000 for violating the terms of the consent agreement pursuant to §§ 30-10-201(13)i and 30-10-201(18), MCA.
3. Order Respondents Mochetta and Strasbourger's registration and license in Montana permanently suspended and/or denied for violating the provisions of the consent agreement, pursuant to § 30-10-201(13)i, MCA.
4. Any other such relief allowed by law or required by justice.

### **STATEMENT OF RIGHTS**

You are entitled to a hearing to respond to this notice, present evidence and arguments on all issues involved in this case. You have a right to be represented by an attorney at any and all stages of this proceeding. You may demand a formal hearing before a hearing examiner appointed by the Commissioner pursuant to the Montana Administrative Procedure Act, §§ 2-4-601, MCA, et seq., including §§ 2-4-631, MCA. If

you demand a hearing, you will be given notice of the time, place and the nature of the hearing.

If you want to contest the proposed action under the jurisdiction of the Commissioner, you must advise the Commissioner within 15 days of the date you receive this notice. You must advise the Commissioner of your intent to contest the proposed action by writing to Russell Wheat, Special Assistant Attorney General, State Auditor's Office, 840 Helena Avenue, Helena, Montana 59601. Your letter must clearly indicate whether you demand a hearing, or whether you waive formal proceedings and, if so, what informal proceedings you prefer for disposition of this case. Pursuant to §§ 2-4-603(2), MCA, you may not request to proceed informally if the action could result in suspension, revocation, denial, or any other adverse action against a professional license.

Should you request a hearing, you have the right to be accompanied, represented, and advised by counsel. If the counsel you choose has not been admitted to practice law in the state of Montana, he or she must comply with the requirements of Application of American Smelting and Refining Co., 164 Mont. 139, 520 P.2d 103 (1973) and Mont. Supreme Court Comm'n on the Unauthorized Practice of Law v. O'Neil, 2006 MT 284, 334 Mont. 311, 146 P.3d 200.

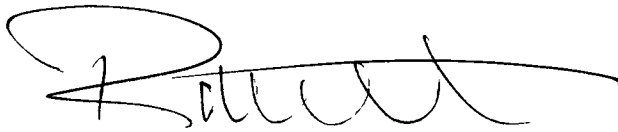
#### **CONTACT WITH SECURITIES COMMISSIONER'S OFFICE**

If you have questions or wish to discuss this matter, please contact Russell Wheat, legal counsel for the Commissioner of Securities, State Auditor, at 840 Helena Avenue, Helena, MT, 59601, (406)-444-2040 or, within Montana, (800) 332-6148. If an attorney represents you, please make any contacts with this office through your attorney.

### **POSSIBILITY OF DEFAULT**

Failure to give notice or to advise of your demand for a hearing or informal procedure within 15 days, will result in the entry of a default order imposing the disciplinary sanctions set out above against you and your license, without further notice to you, pursuant to 6.2.101, Administrative Rules of Montana and the Attorney General's Model Rule 10, 1.3.214.

DATED this 30<sup>th</sup> day of October, 2009.



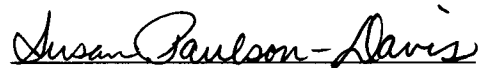
RUSSELL WHEAT  
Special Assistant Attorney General

### **CERTIFICATE OF SERVICE**

I hereby certify the foregoing Notice of Agency Action was served by US mail, certified mail pre- paid on October 30, 2009, on the following:

Ronald Moschetta  
Strasbourger Pearson Tulcin  
Wolff Inc  
600 Old Country  
Garden City, NY 11530

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Wolff Inc  
600 Old Country  
Garden City, NY 11530

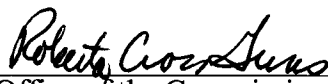


**CERTIFICATE OF SERVICE**

**MAR 23 2011**

This is to certify that on this 23<sup>rd</sup> day of March, 2011, a copy of the foregoing Amended Notice of Proposed Agency Disciplinary Action was served upon the following by depositing a true and correct copy thereof in the United State mail, postage prepaid, addressed to:

Brian Gallik  
J. Devlan Geddes  
Goetz Law Firm  
PO Box 6580  
Bozeman, MT 59771-6580

  
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Office of the Commissioner of Securities and Insurance